

1 DAVID P. BOEHM (pro hac vice pending)  
2 david.boehm@nrlrb.gov  
3 NATIONAL LABOR RELATIONS BOARD  
4 Contempt, Compliance, and Special Litigation Branch  
5 1015 Half Street, S.E., Floor 4  
6 Washington, D.C. 20003  
7 Telephone: (202) 273-4202  
8 Facsimile: (202) 273-4244

9 LYNN TA (SB# 279991)  
10 lynn.ta@nrlrb.gov  
11 NATIONAL LABOR RELATIONS BOARD  
12 Region 31  
13 11500 W. Olympic Blvd., Suite 600  
14 Los Angeles, California 90064  
15 Telephone: (310) 307-7317  
16 Facsimile: (310) 235-7420

17 Attorneys for Defendants

18  
19 UNITED STATES DISTRICT COURT  
20 FOR THE CENTRAL DISTRICT OF CALIFORNIA  
21 WESTERN DIVISION  
22

23 SPACE EXPLORATION  
24 TECHNOLOGIES CORP.,

25 Plaintiff,

26 v.

27 NATIONAL LABOR RELATIONS  
28 BOARD, *et al.*

Defendants.

} Case No. 2:24-cv-01352-CBM-AGR

} DEFENDANTS' NOTICE  
REGARDING FURTHER  
DEVELOPMENTS IN FIFTH  
CIRCUIT MANDAMUS  
PROCEEDINGS AND REQUEST  
TO BRIEF PRIOR TO ANY  
RETRANSFER

1 Defendants National Labor Relations Board, *et al.* (collectively,  
2 “NLRB”) submit this notice in accordance with its prior notice to the  
3 Court that it would apprise it of developments in related proceedings.  
4 [ECF 86.] Today, February 26, 2024, the United States Court of Appeals  
5 for the Fifth Circuit issued the attached order directing the United States  
6 District Court for the Southern District of Texas to request retransfer of  
7 this case to that court. *See Order, In re: Space Expl. Techs. Corp.*, No. 24-  
8 40103 (5th Cir. Feb. 26, 2024), ECF No. 46-1. The Fifth Circuit’s order  
9 does not grant or deny the petition for writ of mandamus filed by  
10 Plaintiff Space Exploration Technologies Corp., but rather seeks  
11 retransfer in advance of such a ruling to “maintain procedural clarity,  
12 reduce inter-circuit friction, and foster comity.” *Id.* at 2 n.1  
13  
14  
15  
16  
17

18 Defendants take the position that this case was transferred, and  
19 properly so, to the jurisdiction of this Court. In a notice dated February  
20 20, 2024, this Court stated that the case had been “transferred to this  
21 district and assigned” both a case number and a district judge. [ECF No.  
22 85.] The Fifth Circuit issued an order (stamped as filed on February 19 in  
23 one place, and February 20 in another, but issued by ECF on February  
24 19) administratively staying the transfer order. Today’s Fifth Circuit  
25 order questions “the wisdom of docketing a case when the transfer order  
26  
27  
28

1 has already been stayed,” Or. at 1 n.1, but there is no indication that the  
2 administrative stay did—or even could—restrain this Court’s processing  
3 of the transferred action.\*  
4

5 Defendants request an opportunity to brief the propriety of  
6 retransfer before any order is issued retransferring the case. As the  
7 NLRB intends to show, retransfer would serve no purpose because (1) the  
8 original transfer order was correct, (2) even if the case is returned to the  
9 Southern District of Texas and the Fifth Circuit eventually grants  
10 SpaceX’s mandamus petition, the case can still ping-pong back to this  
11 Court, based on the NLRB’s alternative request for a discretionary  
12 transfer under 28 U.S.C. § 1404(a), (3) the NLRB’s answer or motion to  
13 dismiss this matter is due on March 4, and it must know what Court has  
14 jurisdiction to intelligently assess its defenses, and (4) SpaceX seeks to  
15 enjoin a hearing that is only eight days away.  
16  
17  
18  
19  
20

---

21  
22 \* Beyond this, the facts surrounding the processing of the transferred  
23 case are unclear. NLRB counsel was informed by telephone on February  
24 21 by the Clerk’s Office of this Court of the case number, 24-cv-1349, and  
25 the assigned judge, Christina A. Snyder, for this matter. However, that  
26 case number did not return a result in CM/ECF on February 21 or 22;  
27 then, on February 23, 24-cv-1349 showed in CM/ECF as relating to a  
28 different action in this Court. That same day, February 23, 2024, the  
undersigned attorney, Lynn Ta, went to the Clerk’s Office and was  
informed that a new case number had to be generated before the case  
could be made available on CM/ECF, which occurred shortly thereafter.

1           The NLRB further requests that, if this Court is inclined to  
2 disagree, it should stay any retransfer for ten days, to permit any party  
3 to seek appropriate relief.  
4

5                           DAVID P. BOEHM (pro hac vice pending)  
6                           david.boehm@nlrb.gov  
7                           NATIONAL LABOR RELATIONS BOARD  
8                           Contempt, Compliance, and Special  
9                           Litigation Branch  
10                          1015 Half Street, S.E., Floor 4  
11                          Washington, D.C. 20003  
12                          Telephone: (202) 273-4202  
13                          Facsimile: (202) 273-4244

14                          By: s/Lynn Ta  
15                          LYNN TA  
16                          Field Attorney  
17                          NATIONAL LABOR RELATIONS BOARD,  
18                          REGION 31  
19                          11500 W. Olympic Blvd., Suite 600  
20                          Los Angeles, CA 90064  
21                          Telephone: (310) 307-7317  
22                          Facsimile: (310) 235-7420

23                          Attorneys for Defendants

24           DATED: February 26, 2024  
25  
26  
27  
28